



CASEY GERRY SCHENK FRANCAVILLA BLATT & PENFIELD LLP

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January 8, 2016

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The Honorable Charles R. Breyer
United States District Judge
United States District Court
Northern District of California
450 Golden Gate Avenue
San Francisco, CA 94102

of Counsel
Scott C. Cummins

Re: *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and
Products Liability Litigation*, MDL No. 2672 CRB (JSC)

David S. Casey, Sr.
1913-2003
President,
California State Bar, 1975

Dear Judge Breyer:

Richard F. Gerry
1924-2004
President,
Association of Trial Lawyers
of America, 1982

Pursuant to Pretrial Order Nos. 1 and 2 (Dkts. 2 and 336), this letter will serve as my application for appointment to serve as a member of the Plaintiffs' Steering Committee representing all plaintiffs.

David S. Casey, Jr.
President,
Association of Trial Lawyers
of America, 2004

On September 29, 2015, our firm filed a class action complaint on behalf of California owners and lessees of affected vehicles, *Miller, et al. v. Volkswagen Group of America, Inc., et al.*, in the United States District Court for the Central District of California, which has since been transferred to this pending MDL.

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I am the managing partner of the San Diego based firm of Casey Gerry Schenk Francavilla Blatt & Penfield, LLP, founded in 1947. CaseyGerry focuses on complex civil litigation, with an emphasis on consumer protection, class actions, product defect, pharmaceutical and injury matters. We have held numerous leadership roles in cases at both the state and federal level. We have prosecuted a variety of multimillion-dollar consumer fraud, unfair business practices, product defect cases and class actions. The defendants in these cases have included companies such as Exxon, Sony, Toyota, Phillip Morris, Inc., RJR Nabisco, AT&T, Mitsubishi, Apple, Bank of America, American Express, and Honda Corporation, among others. I am willing and able to dedicate the necessary time and resources to

*Admitted in New Mexico

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this matter. I am ready to immediately commit to any task necessary in the litigation, with the full backing of my firm. We have the personnel and the financial resources to participate at the highest level, and I am no stranger to complex matters.

Decades ago, I represented 13 Honda dealers in the Los Angeles area who were victims of a fraud perpetrated by employees of Honda Corporation. Between the Los Angeles and other nationwide dealerships, a settlement was reached totaling nearly \$330,000,000.00. The MDL was before Judge J. Frederick Motz, USDC for the District of Maryland. Up until that time, the case this was the largest fraud action in the country involving the automobile industry. In that litigation, the interaction between the various manufacturing entities, and the international interaction among manufacturers, dealerships and others were key components of our liability cases.

Our firm was also was involved in the prosecution of the Exxon Valdez case. We represented over 1,000 individual clients injured economically by the Exxon Valdez Oil Spill. The case went to verdict after trial before Judge H. Russell Holland. After a record-breaking verdict, we continued to represent our clients through over a decade of appeals, culminating in a hearing on the verdict, involving most of the victims, before the United States Supreme Court, nearly 20 years after we became involved.

During the pendency of the Exxon Valdez Oil Spill case, I played a lead role, along with two other California firms, as we represented Gray Davis in his private attorney general action as part of the Castano Group, a national coalition of law firms. The case was instigated when the State of California declined to act to recoup health care costs for tobacco related illnesses from the Tobacco product manufacturers. This litigation too, involved multiple billion dollar companies, who had been involved in litigation over the effects of tobacco use for decades. My involvement included extensive negotiations in Washington, DC, and work on proposed legislation. Ultimately, a global settlement resulted in the resolution of all claims, including Governor Davis' claim, and billions of dollars were available to the states as a result.

I also served in leadership in: *In re: World War II Era Japanese Forced Labor* (MDL 1347, USDC, ND of CA, Hon. Vaughn Walker, *Ret.* (which ultimately was dismissed by Hon. Walker on the grounds that the 1951 Peace Treaty with Japan barred the claims), and currently serve as a member of the Plaintiffs' Steering Committee, MDL 2323: *In re National Football League Players' Concussion Injury Litigation* USDC, ED of PA, Hon. Anita B. Brody, 601 Market St., Philadelphia, PA, 19106, (215) 597-3978).

I am a past president of ATLA (now AAJ), an organization which at that time had a membership of 60,000 lawyers nationwide. During my presidency, I am proud to have been one of a small group of people who proposed the Victims Compensation Fund for victims of the unprecedented terrorist attacks of September 11, 2001. This fund became

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one of the largest pro bono programs in history with over 1,000 lawyers volunteering hundreds of thousands of hours of time, and providing a majority of the victim's families over \$6-700,000,000.00 in free legal services. While I was president of ATLA, in only 3 years, over 1,745 people were compensated over 2.25 billion dollars, all of which was obtained for the families of 9/11 victims on a pro bono basis. I was actively involved in oversight of the program through its successful conclusion in 2004. Kenneth Feinberg served as a special master in that proceeding.

My firm recently also served in leadership roles in the following MDL actions: *In re: Hydroxycut Marketing and Sales Practice Litigation* (MDL 2087, USDC, SD of CA, Hon. Barry T. Moskowitz); *In re: Sony Gaming Networks and Customer Data Security Breach Litigation* (MDL 2258, USDC, SD of CA, Hon. Anthony Battaglia); *In re: Incretin Mimetics Products Liability Litigation* (MDL 2452, USDC, SD of CA, Hon. Anthony Battaglia).

If appointed to serve as a member of the Plaintiffs' Steering Committee, I will commit all resources and effort necessary to successfully resolve this major litigation. My firm is structured such that I am able to fully devote my time to this very important work. We have all resources necessary to effectively litigate the claims in this matter and will bring more than enough resources to zealously advocate the interests of the plaintiffs. We have agreed to continue to make this case a focus of our litigation efforts, and are committed to litigating it to conclusion on behalf of the plaintiffs while at the same time taking all steps necessary to ensure efficient handling of this matter and to avoid duplication of work and unnecessary expense. My firm and I have a nationwide reputation of working cooperatively with both other plaintiffs' counsel and defense counsel.

I would be privileged to serve on the Plaintiffs' Steering Committee for plaintiffs in this case, and am proud to have this application supported by many colleagues who I have worked with and known throughout the decades. These supporters include Frank M. Pitre of Cotchett, Pitre & McCarthy LLP in Burlingame, California, Mark Robinson, Jr. of Robinson, Calcagnie & Robinson in Newport Beach, California, Wylie Aitken of Aitken, Aitken, Cohn in Santa Ana, California, and Todd Smith, of Power, Rogers & Smith, in Chicago, Illinois.

Thank you for your consideration.

Sincerely yours,



DAVID S. CASEY, JR.